

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION**

JASON ALFORD, DANIEL LOPER, WILLIS
MCGAHEE, MICHAEL MCKENZIE, JAMIZE
OLAWALE, ALEX PARSONS, ERIC SMITH,
CHARLES SIMS, JOEY THOMAS, and LANCE
ZENO, Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

vs.

THE NFL PLAYER DISABILITY &
SURVIVOR BENEFIT PLAN; *et al.*,

Defendants.

Case No. 1:23-cv-00358-JRR

PLAINTIFFS' MOTION TO SEAL

Pursuant to Local Rule 105.11 and Paragraph 17 of the Stipulated Protective Order, ECF No. 104, Plaintiffs move to file under seal the unredacted administrative records and confidential documents produced by Defendants that are exhibits to the motion to compel briefing.

Although “[t]he common law presumes a right of the public to inspect and copy ‘all judicial records and documents,’” that presumption “can be rebutted if countervailing interests heavily outweigh the public interests in access.” *Va. Dep’t of State Police v. Wash. Post*, 386 F.3d 567, 575 (4th Cir. 2004) (first quoting *Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 180 (4th Cir. 1988); and then quoting *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253 (4th Cir. 1988)); *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597-99 (1978). In deciding motions to seal in this District, courts consider whether “less drastic alternatives to sealing,” such as redacting documents, are possible. *J.C. v. McKnight*, No. DKC 23-2019, 2023 WL 5487216, at *1 (D. Md.

Aug. 24, 2023) (citing *In re Knight Publishing Co.*, 743 F.2d 231, 234 (4th Cir. 1984)). When a court determines that sealing is appropriate, the court “provide[s] reasons, supported by specific factual findings, for its decision to seal and for rejecting alternatives.” *Id.* (citing *Knight*, 743 at 234-35).

Recognizing the balance between the public’s right to access and the Parties’ rights to privacy, the Stipulated Protective Order requires that a party seeking to file Confidential Information, as defined in the Protective Order, to either redact the Confidential Information or seek permission from the Court to file unredacted versions under seal. ECF No. 104 at 8.

Here, in support of their motion to compel, Plaintiffs cite documents from their administrative records and other documents designated as confidential information by Defendants. *See* Exs. A-G to Declaration of Benajmin R. Barnett in Support of Plaintiffs’ Motion to Compel Discovery, dated Nov. 26, 2024; Exs. K-M to Declaration of Benajmin R. Barnett in Support of Plaintiffs’ Reply to Their Motion to Compel Discovery, dated Dec. 20, 2024. The documents from Plaintiffs’ administrative records in particular are highly sensitive and contain their private health information, which qualifies as Confidential Information, as defined in the Stipulated Protective Order, *see* ECF No. 104 at 2-4, and information identified in Federal Rule of Civil Procedure 5.2(a).¹

In addition, page 28 of Plaintiffs’ opening memorandum in support of their motion to compel refers to and quotes from a document that Defendants designated as confidential.

¹ Defendants have designated nearly every file in Defendants’ limited document productions to date as Confidential Information under the negotiated Protective Order. Some designations, e.g., administrative records, are appropriate. Plaintiffs believe that other designations are improper. On December 19, 2024, counsel for Plaintiff requested that NFL ALFORD-0012311 to NFL ALFORD-0012318 be de-designated by agreement. Counsel for Defendants have declined to do so. Accordingly, counsel for Plaintiffs will need to formally challenge that and potentially other designations in the future..

Accordingly, Plaintiffs are filing a redacted version of their opening memorandum on the public docket and request that the unredacted version of the memorandum be sealed.

Given the nature of these documents and their designation as Confidential Information, Plaintiffs respectfully request that the Court seal (a) Exhibits A to M to Plaintiff's opening and reply declarations in support of their motion to compel and (b) the unredacted version of Plaintiffs' opening memorandum in support of their motion to compel.

A proposed Order accompanies this Motion.

Dated: December 26, 2024

Respectfully submitted,

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